

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF ADMINISTRATION

In the Matter of the Appeal of the
Determination of the Responsible
Authority for the City of Minneapolis that
Certain Data about Antonio F. Bragg are
Accurate and/or Complete.

**FINDINGS OF FACT, CONCLUSIONS
and RECOMMENDED DECISION**

The above matter came on for hearing before Administrative Law Judge George A. Beck at 9:30 a.m. on June 9, 2005 at the Office of Administrative Hearings in Minneapolis, Minnesota. The Office of Administrative Hearings record closed at the conclusion of the hearing.

Antonio F. Bragg, PO Box 581411, Minneapolis, MN 55458 appeared on his own behalf without counsel. James A. Moore, Assistant City Attorney, 333 South Seventh Street, Suite 300, Minneapolis, MN 55402-2453 appeared representing the city of

This report is a recommendation, not a final decision. The Commissioner of Administration will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact the Commissioner of Administration, 50 Sherburne Avenue, St. Paul, MN 55155, 651-296-1424, to learn the procedure for filing exceptions or presenting argument.

Minneapolis.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

STATEMENT OF THE ISSUE

The issue in this contested case is whether certain data concerning Antonio Bragg contained in three Minneapolis Police Incident Reports are accurate and/or complete within the meaning of the Minnesota Government Data Practices Act.

The Administrative Law Judge concludes that the challenged data contained in the reports is reasonably accurate and complete.

Based upon all of the proceedings in this matter, the Administrative Law Judge makes the following:

FINDINGS OF FACT

December 22, 1995 Incident

1. Mr. Bragg was a passenger in the front seat of an automobile that was stopped by Minneapolis Police on December 22, 1995 at approximately 10:30 p.m. at the intersection of Nicollet Avenue South and East 33rd Street. A loaded revolver was found underneath Mr. Bragg's seat and he was arrested.^[1]

2. The incident report prepared by Officer Robert Berry stated that Mr. Bragg was seated in the front passenger seat and was removed from the vehicle and placed in the rear of a squad. The report noted that Mr. Bragg was very upset at officers and argued against being placed in the rear of the squad and pat searched, stating that he had done nothing wrong.^[2]

3. Mr. Bragg argued that his behavior was appropriate and that he did not get upset, argue or fight with the officers. He suggested that the officer must be referring to some other arrest. Mr. Bragg failed to establish that the statement by Officer Berry was not accurate or complete.

June 8, 1996 Incident

4. On June 8, 1996 at 1:52 a.m., Mr. Bragg was driving a vehicle in the vicinity of 26th Street and Nicollet Avenue. He was observed by a Minneapolis Police Squad to be driving at a high rate of speed and was pulled over and arrested for driving while intoxicated.^[3]

5. A "public data" section in the police report indicated that Mr. Bragg had been traveling at a high rate of speed, that the officers had detected Mr. Bragg to have signs of intoxication and that defendant refused to perform a field sobriety test and struggled with one of the officers.^[4]

6. Mr. Bragg contended that he was never asked to complete a field sobriety test and did not refuse to do so or struggle with an officer. Mr. Bragg failed to establish that it is more likely than not that the police summary was not accurate or complete.

7. The case supplement statement in the police report prepared by Officers Donald Cheung and Christopher Granger stated that they attempted to catch up with Mr. Bragg and were unable to do so despite traveling approximately 60 to 65 miles per hour. The statement also indicated that Mr. Bragg made an extreme wide turn at a high rate of speed without any turn signal.^[5]

8. Mr. Bragg denied that this happened and suggested that the officers must be referring to some other arrest. Mr. Bragg failed to establish it was more likely than not that this portion of the case supplement was inaccurate or incomplete.

9. The officers also noted in their statement that they continued traveling at a high rate of speed to catch up with Mr. Bragg and that as Mr. Bragg was turning west bound onto 25th Street from Pleasant, they did catch him and were able to read his license plate number to dispatch and then initiated a traffic stop. The statement also noted that Officer Granger approached the driver's side of the vehicle and asked Mr. Bragg for his driver's license. Officer Granger asked Mr. Bragg how fast he was going and Mr. Bragg stated that he wasn't traveling faster than 20 miles per hour. Officer Granger then explained to Mr. Bragg that he was being stopped for excessive speed. The report also noted that Mr. Bragg stated that he wasn't driving fast and he then became argumentative about the reason he had been stopped. The report notes that the officer suspected that Mr. Bragg had been drinking. It states that Officer Granger ordered Mr. Bragg two more times to step out of the car and that Mr. Bragg stated that the driver's side door did not open and that he had to exit through the passenger door.^[6]

10. Mr. Bragg contends that neither Officer Cheung nor Granger were involved in his arrest, and that he never argued with the officer. He believes that the officers must be referring to some other arrest. Mr. Bragg has failed to prove that it is more likely than not that this portion of the officer's statement was not accurate or complete.

11. The officer's statement about the June 8, 1996 incident also indicates that Mr. Bragg got out of the car and was asked by Officer Granger to put his hands on the car to be pat searched. The statement indicates that Mr. Bragg refused to put his hands on the car and that Officer Granger then used an escort hold at which point the officer attempted to push Mr. Bragg against the car and Mr. Bragg began to struggle even more. The officer then tripped Mr. Bragg causing him to fall to the ground. Mr. Bragg continued to struggle and he refused to put his arms behind his back so that he could be hand cuffed.^[7]

12. Mr. Bragg contends that he never refused the officers' requests and that he was tackled from behind after he had put his hands in the air. Mr. Bragg has failed to demonstrate that it is more likely than not that this portion of the statement by the officers was not accurate or complete.

13. The officer's supplemental statement also stated that one of the officers sat on top of Mr. Bragg, grabbed his right leg and used a flashlight to apply pressure, at which point Mr. Bragg finally complied with both of his hands behind his back and he was handcuffed. The statement indicates that he was then pat searched and placed in the squad car and informed that he was under arrest. The statement indicates that the officer could smell the odor of alcohol coming from the rear of the squad.^[8]

14. Mr. Bragg indicates that the entire statement outlined above is untrue. However, he had not shown that it is more likely than not that the statement is not accurate or complete.

15. The statement prepared by the officers also indicated that Mr. Bragg stated "I knew you were going to stop me, they told me you were coming...your people." It indicates that Mr. Bragg said that "you can't do me like this, without that badge, your family has to pay for this." The statement also says that Mr. Bragg told the officer that each time he had an encounter with police officers the tape implanted into his body will turn on automatically.^[9]

16. Mr. Bragg argues that the officers must be referring to some other arrest and defendant. He has not shown that it is more likely than not that the statement is inaccurate or incomplete.

17. The officer's statement relating to the June 8, 1996 incident also indicated that Mr. Bragg stated that he wanted to consult with an attorney, that the officers provided him with the telephone book and a telephone and that Mr. Bragg then sat for a few minutes and refused to call anyone.^[10] The statement also indicated that Mr. Bragg refused to call anyone else and told the officers he wanted to consult with an attorney but refused to use the telephone book. The statement also noted that because the officers had to fight with Mr. Bragg, he was not uncuffed during the chemical test.^[11]

18. Mr. Bragg contends that he never fought with the officers during the arrest, that he never refused to call anyone, and that the officers must be referring to some other arrest and defendant. Mr. Bragg has failed to show it is more likely than not that the statement prepared by the officers was not accurate or complete.

19. The statement prepared by Officers Cheung and Granger also indicated that they advised Mr. Bragg to use his time wisely, that he then laid his head down near his knees and made no attempt to do anything. After 30 minutes, the officers asked the defendant if he would take a breath test and he refused. The statement indicates that the officers advised Mr. Bragg throughout the 30 minutes as well as at the conclusion of that time period, that refusal to take the test was a crime and then advised him that he had refused to take the test.^[12]

20. Mr. Bragg denies that the officers advised him to use his time wisely. Mr. Bragg has not proved that it is more likely than not that the statement was inaccurate or incomplete.

21. The officers' statement stated that they could not perform field sobriety tests because Mr. Bragg was uncooperative and combative, accused the officers of falsely arresting him, and spontaneously uttered that he had consumed one pitcher of MGD brand beer with a friend at Sonny's Bar as well as some gin.^[13]

22. Mr. Bragg denies that he stated anything about beer or gin and that a field sobriety test was not performed because the officers had already decided to arrest him for a DWI. He again denied that Officers Cheung and Granger were involved in this arrest. Mr. Bragg has failed to demonstrate that the report was more likely than not inaccurate or incomplete.

November 1, 1998 Incident

23. On November 1, 1998, Minneapolis Police Officer Travis Glampe and an Officer O'Rourke were called to Mr. Bragg's home by his wife who was afraid that he was going to assault her.^[14]

24. The "public data" portion of the police report prepared by the police officer concerning this incident indicated that Mr. Bragg's wife stated that her husband was off his medications and that she was afraid he would assault her if the officers did not take him away. The statement indicates that shortly thereafter a male suspect came to the door and started arguing with the officers.^[15]

25. Mr. Bragg stated that his wife was playing the role of a helpless, abused soul needing comfort from her violent husband and that the officers fell for the act. He has not established that it is more likely than not that the statement described above was not accurate or complete.

26. The case supplement number one in the report prepared by the officers indicates that Mr. Bragg came to the front door and started to argue and that one of the officers asked him to come down the stairs and talk. The statement indicates that Mr. Bragg then turned and tried to run into the house, was told to stay outside, but ignored the command. The statement indicates that Mr. Bragg tried to slam the door on the officer but it was forced open and Mr. Bragg was apprehended after a short tussle, searched and placed in the back of the squad car.^[16]

27. Mr. Bragg contends that he stepped outside and talked with the officers when they asked him to do so and told them that he had not physically or verbally abused his wife. Mr. Bragg has not established that it is more likely than not that this portion of the statement was inaccurate or incomplete.

28. A second supplement prepared by the officers stated in part that due to the possible mental condition of Mr. Bragg, he was first taken to the crisis unit where the officers were advised to book him at Hennepin County jail.^[17]

29. Mr. Bragg objects to this part of the statement because he believes that once the subject has been labeled as mentally ill, the subject could be hospitalized or killed at random. He has not established that it is more likely than not that this statement is inaccurate not incomplete.

30. Mr. Bragg challenged the accuracy of these statements in each report and the responsible authority for the city of Minneapolis found the statements to be complete and correct.^[18] Mr. Bragg then appealed each determination to the Commissioner of Administration.^[19]

31. In regard to each of the three appeals filed by Mr. Bragg, the issues were narrowed by the Information Policy Analysis Division of the Department of Administration and mediation was unsuccessfully attempted for each appeal.^[20]

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Commissioner of Administration and the Administrative Law Judge have jurisdiction in this matter under Minn. Stat. §§ 13.04, subd. 4 and 14.50 and under Minn. Rule 1205.1600.

2. The Department of Administration has complied with all the relevant substantive and procedural requirements of law or rule.

3. The Department of Administration has given proper notice of the hearing in this matter.

4. Antonio Bragg is the subject of data on private individuals maintained by the city of Minneapolis.

5. The city of Minneapolis is a political subdivision of the State and is subject to the provisions of the Minnesota Government Data Practices Act.^[21]

6. An individual may contest the accuracy or completeness of public or private data relating to him and may appeal the determination of the responsible authority in this regard under the provisions of the Administrative Procedure Act.^[22]

7. The burden of proof in this proceeding is upon Mr. Bragg to prove by a preponderance of the evidence that the data is not accurate and/or complete.^[23]

8. “Accurate” means that the data in question is reasonably correct and free from error.^[24]

9. “Complete” means that the data in question reasonably reflects the history of an individual’s transactions with the particular entity. Omissions in an individual’s history that place the individual in a false light shall not be permitted.^[25]

10. Mr. Bragg has failed to demonstrate by a preponderance of the evidence that any of the data that he has challenged in the police reports is either inaccurate or incomplete.

11. This Conclusion is reached for the reasons set out in the Memorandum that follows which is incorporated by reference.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Commissioner of Administration issue an Order dismissing each of the appeals filed by Antonio Bragg.

Dated this 20th day of June, 2005.

s/George A. Beck
GEORGE A. BECK
Administrative Law Judge

Reported: Tape Recorded
Two-tapes/No transcript prepared.

MEMORANDUM

All of the data challenged by Mr. Bragg in this contested case proceeding was supported at the hearing by testimony of one of the officers involved in each of the three incidents. They affirmed the accuracy of the reports. Mr. Bragg generally testified that some of the officers were not even involved in the incidents, that the officers writing the reports had some other arrest in mind and that the facts recorded were simply not true. Given Mr. Bragg's condition during the three incidents in question, there is no reason to believe that his version of the events is more accurate than that recorded and testified to by the three police officers involved. Mr. Bragg has failed to show that it is more likely than not that any of the material that he challenged in the police reports in question is inaccurate or incomplete.

G.A.B.

^[1] Exhibit 3, p. 7-8.

^[2] Exhibit 3, p. 7; Officer Berry testified at the hearing that his report was accurate.

^[3] Exhibit 1, p. 13.

^[4] Exhibit 1, p. 15.

^[5] Exhibit 1, p. 16; Officer Granger testified at the hearing that the police report for the June 8, 1996 incident was accurate.

^[6] Exhibit 1, p. 16.

^[7] Exhibit 1, p. 16.

^[8] Exhibit 1, p. 16-17.

^[9] Exhibit 1, p. 17.

^[10] Exhibit 1, p. 17.

^[11] Exhibit 1, p. 17.

^[12] Exhibit 1, p. 17; Exhibit B, Exhibit C.

^[13] Exhibit 1, p. 17.

^[14] Exhibit 2, p. 10.

^[15] Exhibit 2, p. 10; the accuracy of this report was testified to at the hearing by Officer Glampe.

- [\[16\]](#) Exhibit 2, p. 11.
- [\[17\]](#) Exhibit 2, p. 12.
- [\[18\]](#) Exhibit 3, p. 2; Exhibit 2, p. 2; Exhibit 1, p. 2.
- [\[19\]](#) Exhibit 3, p. 1; Exhibit 2, p. 1; Ex. 1, p. 1.
- [\[20\]](#) Exhibits 4-25.
- [\[21\]](#) Minn. Stat. §§13.01, subd. 1, 13.02, subd. 11.
- [\[22\]](#) Minn. Stat. § 13.04, subd. 4.
- [\[23\]](#) Minn. Rule 1400.7300, subpart 5.
- [\[24\]](#) Minn. Rule 1205.1500, subpart 2(A).
- [\[25\]](#) Minn. Rule 1205.1500, subpart 2(B).